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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,873	06/08/2007	Holger Listle	10191/4418	3733

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KENYON & KENYON LLP  
ONE BROADWAY  
NEW YORK, NY 10004

EXAMINER
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CHEN, SHELLEY

ART UNIT	PAPER NUMBER
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3661

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09/14/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,873	<b>Applicant(s)</b> LISTLE, HOLGER	
	<b>Examiner</b> SHELLEY CHEN	<b>Art Unit</b> 3661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 August 2010.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 7 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7 and 10-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 19 August 2010 have been fully considered but are not persuasive. Arguments concerning the new claim limitations are addressed in the rejections below.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 7 and 10-13 rejected** under 35 U.S.C. 103(a) as being unpatentable over **Barkowski et al.** (DE 10155485, see machine translation) in view of **Seto et al.** (U.S. Patent Application Publication # 2002/0152022).

**Regarding claim 7**, Barkowski (see column 3, paragraph 13 to column 7, paragraph 25 and Figures 1-2, etc) discloses a method for operating a vehicle navigation system by enabling navigation data (see title) which is stored on a data carrier (see column 4, paragraph 14, etc), and enabling the useful data for an area definable by a user of the useful data (see column 5, paragraph 19 and columns 6 and 7, paragraph 25, etc).

Barkowski does not disclose defining the area by the user by one of (a) defining a center point and a radius of a circular region, or (b) specifying the corners of the area.

In the same field of endeavor, Seto discloses a similar method for operating a vehicle navigation system by enabling navigation data (abstract, figs 1, 4-5, etc), including defining the area by the user by specifying the corners of the area (fig 2:12, fig 4: S1-1, fig 5: S2-1, P44, 56, 63, etc).

It would have been obvious to do so, as taught by Seto and commonly known in the art, in order to select and pay for only those regions that will be traveled by the user, with predictable results.

**Regarding claim 10**, Barkowski discloses the claimed use authorization is transmitted via a radio signal (see column 4, paragraph 17, etc).

**Regarding claim 11**, Barkowski discloses GPS data to determine the location of the user (description of the embodiment, second paragraph, etc).

Barkowski fails to disclose determining whether the user is located within the area for which a use authorization has been granted. However, it would have been obvious to do so, as commonly known in the art, in order to limit authorization only to users within an enabled area, with predictable results.

**Regarding claim 12**, Barkowski discloses the claimed time-limited enabling (see columns 5-6, paragraph 22, etc).

**Regarding claim 13**, Barkowski discloses that the area defined by the user is not limited to any political boundary as claimed (see column 6, paragraph 23-24, etc: multiple political regions can be enabled, therefore enabled area is not limited to any single political boundary).

Seto also discloses that the area defined by the user is not limited to any political boundary (P44, 56, 63, etc).

5. **Claims 7 and 10-13 rejected** under 35 U.S.C. 103(a) as being unpatentable over **Thoone et al.** (US 2002/0069360) in view of **Seto et al.** (U.S. Patent Application Publication # 2002/0152022).

**Regarding claims 7-8, 10, and 12-13**, Thoone discloses a method for operating a vehicle navigation system by enabling navigation data (see title) which is stored on a

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data carrier, and enabling the useful data for an area definable by a user of the useful data (see abstract, etc)

Thoone does not disclose defining the area by the user by one of (a) defining a center point and a radius of a circular region, or (b) specifying the corners of the area.

In the same field of endeavor, Seto discloses a similar method for operating a vehicle navigation system by enabling navigation data (abstract, figs 1, 4-5, etc), including defining the area by the user by specifying the corners of the area (fig 2:12, fig 4: S1-1, fig 5: S2-1, P44, 56, 63, etc).

It would have been obvious to do so, as taught by Seto and commonly known in the art, in order to select and pay for only those regions that will be traveled by the user, with predictable results.

**Regarding claim 11**, Thoone discloses GPS data to determine the location of the user (fig 1: 6, etc).

Thoone fails to disclose determining whether the user is located within the area for which a use authorization has been granted. However, it would have been obvious to do so, as commonly known in the art, in order to limit authorization only to users within an enabled area, with predictable results.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shelley Chen whose telephone number is (571) 270-1330. The examiner can normally be reached Mondays through Fridays, between 10:00 AM and 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached at (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://www.uspto.gov/ebc>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Shelley Chen/

Patent Examiner

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September 10, 2010

/Thomas G. Black/

Supervisory Patent Examiner, Art Unit 3661